

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

IN RE:)	CHAPTER 7
)	
JANE G. FRANKLIN,)	CASE NO. 16-22523-JRS
)	
DEBTOR.)	

MOTION TO REOPEN

COMES NOW Guy G. Gebhardt, Acting United States Trustee for Region 21, and, pursuant to Bankruptcy Code section 350(b) and Federal Rule of Bankruptcy Procedure 5010, moves the Court to reopen this case and direct the United State Trustee to appoint a trustee who can investigate and, if appropriate, administer assets that are property of the estate. In support of this motion, the United States Trustee shows as follows.

1.

Jane G. Franklin commenced this case on December 29, 2016, by filing a petition for relief under chapter 7. Quentin R. Carr, Esq., represented Ms. Franklin.

2.

Albert F. Nasuti was appointed and served as chapter 7 trustee.

3.

On January 30, 2017, Mr. Nasuti filed a report of no distribution based on information available to him at that time.

4.

On February 15, 2017, Nationstar Mortgage LLC filed a motion for relief from stay with respect to the debtor's property at 263 Chesney Glen, Marietta, GA 30064. (Dkt. No. 13). On March 24, 2017, the Court entered an order granting the motion. (Dkt. No. 18). The order provides that, "upon completion of any foreclosure sale, any funds which may be in excess of the amount due to Movant and to any subordinate lienholder(s) properly entitled to receive proceeds under applicable State law, shall be paid to the Trustee for the benefit of the Estate."

5.

On April 18, 2017, the Court discharged the trustee and closed the estate.

6.

After reopening the case, the Court granted the debtor a discharge on June 12, 2017, and closed the case.

7.

The former chapter 7 trustee was recently notified that receipts from foreclosure of the debtor's real property yielded proceeds significantly in excess of the amount of the foreclosing creditor's claim. The trustee advised the United States Trustee that the excess proceeds total \$137,716.04 and that a junior lienholder (Bank of New York Mellon) may assert an interest in a portion (\$11,196.87) of the excess proceeds.

8.

The trustee contends the proceeds are property of the estate that will yield a meaningful distribution to unsecured creditors.

9.

Bankruptcy Code section 350 authorizes the Court to reopen a case to administer assets, to accord relief to the debtor, or for other cause.

10.

Federal Rule of Bankruptcy Procedure 5010 provides that a case may be reopened on motion of the debtor or other party in interest.

11.

The United States Trustee is a party in interest and has standing to raise, appear, and be heard on any issue in any case. 11 U.S.C. § 307.

12.

The United States Trustee requests the Court conduct a hearing and decide whether it is appropriate to reopen the case. If the case is reopened the Court should direct the United State Trustee to appoint a trustee.

13.

Pursuant to the Bankruptcy Court Miscellaneous Fee Schedule, effective December 1, 2016, the United States Trustee should not be charged with the fee for reopening this case.

WHEREFORE, the United States Trustee moves the Court reopen this case and direct the United States Trustee to appoint a chapter 7 trustee if the Court determines, after hearing, that it is appropriate to do so.

GUY G. GEBHARDT
Acting United States Trustee, Region 21

s/ Jeneane Treace

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CERTIFICATE OF SERVICE

I certify that August 28, 2017, I served a copy of this motion upon the following persons by First Class U.S. Mail, addressed as follows.

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